

The Gazette of India

EXTRAORDINARY

PART II—Section 2

PUBLISHED BY AUTHORITY

No. 13] NEW DELHI, FRIDAY, MARCH 13, 1959/PHALGUNA 22, 1880

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 13th March, 1959:—

I

BILL NO. VI OF 1959

A Bill further to amend the Census Act, 1948.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Census (Amendment) Act, 1959.

Short title.

37 of 1948.

2. In sub-section (2) of section 1 of the Census Act, 1948 (hereinafter referred to as the principal Act), the words “except the State of Jammu and Kashmir” shall be omitted.

Amendment of section 1.

3. After section 1 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 2.

45 of 1860,
1 of 1872.

“2. Any reference in this Act to the Indian Penal Code or the Indian Evidence Act, 1872, shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the corresponding enactment in force in that State.”

Rule of construction respecting enactments not extending to Jammu and Kashmir.

STATEMENT OF OBJECTS AND REASONS

In 1941 a census was taken in the State of Jammu and Kashmir as a part of the census operations for the whole of India. But in 1951 a similar census was not taken there on account of administrative difficulties. As these difficulties no longer exist, it is proposed, with the concurrence of the Government of Jammu and Kashmir, to undertake census operations in the State along with the rest of India in 1961. The object of the Bill is to give effect to this proposal by extending the Census Act, 1948, to the State.

G. B. PANT.

NEW DELHI;

The 1st March, 1959.

FINANCIAL MEMORANDUM

It is proposed to extend the Census Act, 1948 (37 of 1948), to the State of Jammu and Kashmir. As "census" is a Union subject, all expenditure incurred in connection with the 1961 population census of India will be met from the Consolidated Fund of India. On a rough estimate, the total expenditure for the year 1959-60, when the Superintendents of Census Operations and their staff will function, is likely to be Rs. 55,000. A token provision of Rs. 7,400 has already been included in the Budget Estimates for 1959-60 in the Jammu and Kashmir circle of account under the Demand for Census.

II

BILL NO. VII OF 1959.

A Bill to prevent the infliction of unnecessary pain or suffering on animals and for that purpose to amend the law relating to the prevention of cruelty to animals.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extend and
commence-
ment.

1. (1) This Act may be called the Prevention of Cruelty to Animals Act, 1959.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and for the different provisions contained in this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “animal” means every species of animal other than a human being and every species of bird;

(b) “Board” means the Animal Welfare Board established under section 4;

(c) “captive animal” means any animal (not being a domestic animal) which is in captivity or confinement, whether

permanent or temporary, or which is subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity or confinement or which is pinioned or which is or appears to be maimed;

(d) "domestic animal" means any animal which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tamed;

(e) "local authority" means a municipal committee, district board or other authority for the time being invested by law with the control and administration of any matters within a specified local area;

(f) "owner", used with reference to an animal, includes not only the owner but also any other person for the time being in possession or custody of the animal, whether with or without the consent of the owner;

(g) "phooka" or "doom dev" includes any process of introducing air or any substance into the female organ of a milch animal with the object of drawing off from the animal any secretion of milk;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

3. It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering. Duties of persons having charge of animals.

CHAPTER II

ANIMAL WELFARE BOARD

4. (1) For the purpose of protecting animals from being subjected to unnecessary pain or suffering and for the promotion of animal welfare generally, there shall be established by the Central Government, as soon as may be after the commencement of this Act, a Board to be called the Animal Welfare Board. Establishment of Animal Welfare Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by its name sue and be sued.

Constitution
of the Board.

5. (1) The Board shall consist of the following persons, namely:—

(a) the Inspector-General of Forests, Government of India, *ex officio*;

(b) the Animal Husbandry Commissioner to the Government of India, *ex officio*;

(c) one person to represent veterinary practitioners, nominated by the Central Government;

(d) one person to represent medical practitioners, nominated by the Central Government;

(e) one person representing each of the municipal corporations of Bombay, Calcutta and Madras, to be elected in each case by the members of the Corporation concerned from among themselves;

(f) one person to represent the all-India Animal Welfare Association, nominated by the Central Government;

(g) one person nominated by the Central Government to represent each of such three societies dealing with prevention of cruelty to animals or animal welfare, as in the opinion of the Central Government ought to be represented on the Board;

(h) two persons nominated by the Central Government;

(i) four Members of Parliament, two to be elected by the House of the People (Lok Sabha) and two by the Council of States (Rajya Sabha).

(2) Any of the persons referred to in clause (a) or clause (b) of sub-section (1) may depute any other person to attend any meetings of the Board.

(3) One of the members of the Board shall be nominated by the Central Government to be its Chairman.

Term of
office of, and
conditions of
service of,
members of
the Board.

6. (1) Save as otherwise provided in this section, the term of office of a member of the Board shall be such as may be prescribed:

Provided that the term of office of a member elected under clause (i) of sub-section (1) of section 5 shall come to an end as soon as he ceases to be a member of the House which elected him.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is such a member.

(3) The term of office of a member nominated or elected to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he is nominated or elected.

(4) The members of the Board shall receive such allowances, if any, as the Board may, subject to the previous approval of the Central Government, provide by regulations made by it in this behalf.

(5) No act done or proceeding taken by the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

7. (1) The Central Government shall appoint one of its officers to be the Secretary of the Board.

Secretary and other employees of the Board.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Board may appoint such number of other officers and employees as may be necessary for the exercise of its powers and the discharge of its functions and may determine the terms and conditions of service of such officers and other employees by regulations made by it with the previous approval of the Central Government.

8. The funds of the Board shall consist of grants made to it from time to time by the Government and of contributions, donations, subscriptions, bequests, gifts and the like made to it by any person.

Funds of the Board.

9. The functions of the Board shall be—

Functions of the Board.

(a) to keep the law in force in India for the prevention of cruelty to animals under constant study and advise the Government on the amendments to be undertaken in any such law from time to time;

(b) to advise the Central Government on the making of rules under this Act with a view to preventing unnecessary pain or suffering to animals generally, and more particularly when they are being transported from one place to another or when they are used as performing animals or when they are kept in captivity or confinement;

(c) to advise the Government or any local authority or other person on improvements in the design of vehicles so as to lessen the burden on draught animals;

(d) to take all such steps as the Board may think fit for ameliorating the condition of beasts of burden by encouraging, or providing for, the construction of sheds, water-troughs and the like and by providing for veterinary assistance to animals;

(e) to advise the Government or any local authority or other person in the design of slaughter-houses or in the maintenance of slaughter-houses or in connection with slaughter of animals so that unnecessary pain or suffering, whether physical or mental, is eliminated in the pre-slaughter stages as far as possible, and animals are killed, wherever necessary, in as humane a manner as possible;

(f) to take all such measures as the Board may think fit, whether by means of propaganda or otherwise, to eliminate the sacrifice of animals in public places or the sacrifice of animals involving unnecessary pain or suffering;

(g) to encourage, by the grant of financial assistance or otherwise, the formation of *pinjrapoles*, sanctuaries and the like where animals and birds may find a shelter when they have become old and useless or when they need protection;

(h) to co-operate with, and co-ordinate the work of, associations or bodies established for the purpose of preventing unnecessary pain or suffering to animals or for the protection of animals and birds;

(i) to encourage the formation of animal welfare organisations in local areas which shall work under the general supervision and guidance of the Board;

(j) to impart education in relation to animals and to encourage the formation of public opinion against the infliction of unnecessary pain or suffering to animals and for the promotion of animal welfare by means of lectures, books, posters, cinematographic exhibitions and the like;

(k) to advise the Government on any matter which may be referred to it for advice in connection with animal welfare or the prevention of infliction of unnecessary pain or suffering on animals.

Power of
Board to
make regula-
tions.

10. The Board may, subject to the previous approval of the Central Government, make such regulations as it may think fit for the administration of its affairs and for carrying out its functions.

CHAPTER III

CRUELTY TO ANIMALS GENERALLY

11. (1) If any person—

Treating
animals
cruelly.

(a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated; or

(b) employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be so employed; or

(c) wilfully and unreasonably administers any injurious drug or injurious substance to any domestic or captive animal or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by any domestic or captive animal; or

(d) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or

(e) keeps or confines any animal in any cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; or

(f) keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or

(g) being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or

(h) being the owner of any captive animal, fails to provide such animal with proper and sufficient food, drink or shelter; or

(i) without reasonable cause abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst; or

(j) wilfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or

(k) offers for sale or, without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment; or

(l) needlessly mutilates any animal or kills any animal in an unnecessarily cruel manner; or

(m) for the purposes of his business, keeps, uses or acts in the management of, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; or

(n) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting;

he shall be punishable, in the case of a first offence, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month, or with both, and, in the case of a second or subsequent offence committed within three years of the previous offence, with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

(2) For the purposes of sub-section (1), an owner shall be deemed to have committed an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence:

Provided that where an owner is convicted of permitting cruelty by reason only of having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

(3) Nothing in this section shall apply to—

(a) the dehorning of cattle, or the castration or branding of any animal, where the operation is attended with as little suffering as is practicable to the animal operated upon; or

(b) the destruction of stray dogs in lethal chambers or by other methods with a minimum of suffering; or

(c) the extermination or destruction of any animal under the authority of any law for the time being in force; or

(d) any matter dealt with in Chapter IV; or

(e) the commission or omission of any act in the course of the destruction or the preparation for destruction of any

animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering.

12. If any person performs upon any cow or other milch animal the operation called *phooka* or *doom dev* or permits such operation being performed upon any such animal in his possession or under his control, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both, and the animal on which the operation was performed shall be forfeited to the Government.

Penalty for practising *phooka* or *doom dev*.

13. (1) Where the owner of an animal is convicted of an offence under section 11, it shall be lawful for the court, if the court is satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed and to assign the animal to any suitable person for that purpose, and the person to whom such animal is so assigned shall, as soon as possible, destroy such animal or cause such animal to be destroyed in his presence without unnecessary suffering, and any reasonable expense incurred in destroying the animal may be ordered by the court to be recovered from the owner as if it were a fine:

Destruction of suffering animals.

Provided that unless the owner assents thereto, no order shall be made under this section except upon the evidence of a veterinary officer in charge of the area.

(2) When any magistrate, commissioner of police or district superintendent of police has reason to believe that an offence under section 11 has been committed in respect of any animal, he may direct the immediate destruction of the animal, if in his opinion, it would be cruel to keep the animal alive.

(3) Any police officer above the rank of a constable who finds any animal so diseased or so severely injured or in such a physical condition that in his opinion it cannot be removed without cruelty, may, if the owner is absent or refuses his consent to the destruction of the animal, forthwith summon the veterinary officer in charge of the area in which the animal is found, and if the veterinary officer certifies that the animal is mortally injured or so severely injured or in such a physical condition that it would be cruel to keep it alive, the police officer may, after obtaining orders from a magistrate destroy the animal injured or cause it to be destroyed.

(4) No appeal shall lie from any order of a magistrate for the construction of an animal.

CHAPTER IV

EXPERIMENTATION ON ANIMALS

Experiments
on animals.

14. Nothing contained in this Act shall render unlawful the performance of experiments (including experiments involving operations) on animals for the purpose of advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or for prolonging life or alleviating suffering or for combating any disease, whether of human beings, animals or plants.

Committee
for control
and supervi-
sion of expe-
riments on
animals.

15. (1) If at any time, on the advice of the Board, the Central Government is of opinion that it is necessary so to do for the purpose of controlling and supervising experiments on animals, it may, by notification in the Official Gazette, constitute a Committee consisting of such number of persons, whether officials or non-officials, as it may think fit to appoint thereto.

(2) The Central Government shall nominate one of the members of the Committee to be its Chairman.

(3) The Committee shall have power to regulate its own procedure in relation to the performance of its duties.

(4) The funds of the Committee shall consist of grants made to it from time to time by the Government and of contributions, donations, subscriptions, bequests, gifts and the like made to it by any person.

Staff of the
Committee.

16. Subject to the control of the Central Government, the Committee may appoint such number of officers and other employees as may be necessary to enable it to exercise its powers and perform its duties, and may determine the remuneration and other terms and conditions of service of such officers and other employees.

Duties of
the Commit-
tee and po-
wer of the
Committee
to make rules
relating to
experiments
on animals.

17. (1) It shall be the duty of the Committee to take all such measures as may be necessary to ensure that animals are not subjected to unnecessary pain or suffering before, during or after, the performance of experiments on them, and for that purpose it may, by notification in the Gazette of India, make such rules as it may think fit in relation to the conduct of such experiments.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made by the Committee shall be designed to secure the following objects, namely:—

(a) that in cases where experiments are performed in any institution, the responsibility therefor is placed on the person

in charge of the institution, and that in cases where experiments are performed outside an institution by individuals the individuals are qualified in that behalf and the experiments are performed on their full responsibility;

(b) that experiments are performed with due care and humanity, and that as far as possible experiments involving operations are performed under the influence of some anaesthetic of sufficient power to prevent the animals feeling pain;

(c) that animals which, in the course of experiments under the influence of anaesthetics, are so injured that their recovery would involve serious suffering, are ordinarily destroyed while still insensible;

(d) that experiments on animals are avoided wherever it is possible to do so; as for example, in medical schools, hospitals, colleges and the like, if other teaching devices such as books, models, films and the like may equally suffice;

(e) that experiments on larger animals are avoided when it is possible to achieve the same results by experiments upon small laboratory animals like guinea-pigs, rabbits and rats;

(f) that experiments are not performed merely for the purpose of acquiring manual skill;

(g) that animals intended for the performance of experiments are properly looked after both before and after experiments;

(h) that suitable records are maintained with respect to experiments performed on animals.

(3) In making any rules under this section, the Committee shall be guided by such directions as the Central Government (consistently with the objects for which the Committee is set up) may give to it, and the Central Government is hereby authorised to give such directions.

(4) All rules made by the Committee shall be binding on all individuals performing experiments outside institutions and on persons in charge of institutions in which experiments are performed.

18. For the purpose of ensuring that the rules made by it are being complied with, the Committee may authorise any of its off- Power of entry and inspection.

cers or any other person in writing to inspect any institution or place where experiments are being carried on and report to it as a result of such inspection, and any officer or person so authorised may—

(a) enter at all reasonable times and inspect any institution or place in which experiments on animals are being carried on; and

(b) require any person to produce any record kept by it with respect to experiments on animals.

Power to prohibit experiments on animals.

19. If the Committee is satisfied, on the report of any officer or other person made to it as a result of any inspection under section 18 or otherwise, that the rules made by it under section 17 are not being complied with by any person or institution carrying on experiments on animals, the Committee may, after giving an opportunity to the person or institution of being heard in the matter, by order, prohibit the person or institution from carrying on any such experiments either for a specified period or indefinitely, or may allow the person or institution to carry on such experiments subject to such special conditions as the Committee may think fit to impose.

Penalties.

20. If any person—

(a) contravenes any order made by the Committee under section 19; or

(b) commits a breach of any condition imposed by the Committee under that section;

he shall be punishable with fine which may extend to two hundred rupees, and, when the contravention or breach of condition has taken place in any institution, the person in charge of the institution shall be deemed to be guilty of the offence and shall be punishable accordingly.

CHAPTER V

PERFORMING ANIMALS

“Exhibit” and “train” defined.

21. In this Chapter, “exhibit” means exhibit at any entertainment to which the public are admitted through sale of tickets, and “train” means train for the purpose of any such exhibition, and the expressions “exhibitor” and “trainer” have respectively the corresponding meanings.

22. No person shall exhibit or train—

(i) any performing animal unless he is registered in accordance with the provisions of this Chapter;

(ii) as a performing animal, any animal which the Central Government may, by notification in the Official Gazette, specify as an animal which shall not be exhibited or trained as a performing animal.

Restriction
on exhibition
and training
of performing
animals.

23. (1) Every person desirous of exhibiting or training any performing animal shall, on making an application in the prescribed form to the prescribed authority and on payment of the prescribed fee, be registered under this Act unless he is a person who, by reason of an order made by the court under this Chapter, is not entitled to be so registered.

Procedure
for registration.

(2) An application for registration under this Chapter shall contain such particulars as to the animals and as to the general nature of the performances in which the animals are to be exhibited or for which they are to be trained as may be prescribed, and the particulars so given shall be entered in the register maintained by the prescribed authority.

(3) The prescribed authority shall give to every person whose name appears on the register kept by them, a certificate of registration in the prescribed form containing the particulars entered in the register.

(4) Every register kept under this Chapter shall at all reasonable times be open for inspection on payment of the prescribed fee, and any person shall, on payment of the prescribed fee, be entitled to obtain copies thereof or make extracts therefrom.

(5) Any person whose name is entered in the register shall, subject to the provisions of any order made under this Act by any court, be entitled, on making an application for the purpose, to have the particulars entered in the register with respect to him varied, and where any such particulars are so varied, the existing certificate shall be cancelled and a new certificate issued.

24. (1) Where it is proved to the satisfaction of any magistrate, on a complaint made by a police officer or an officer authorised in writing by the prescribed authority referred to in section 23, that the training or exhibition of any performing animal has been accompanied by unnecessary pain or suffering and should be prohibited or allowed only subject to conditions, the court may make an order against the person in respect of whom the complaint is made, prohibiting the training or exhibition or imposing such conditions in relation thereto, as may be specified by the order.

Power of
court to
prohibit or
restrict
exhibition
and training
of performing
animals.

(2) Any court by which an order is made under this section shall cause a copy of the order to be sent, as soon as may be after the order is made, to the prescribed authority by which the person against whom the order is made is registered, and shall cause the particulars of the order to be endorsed upon the certificate held by that person, and that person shall produce his certificate on being so required by the court for the purposes of endorsement, and the prescribed authority to which a copy of an order is sent under this section shall enter the particulars of the order in that register.

Power to
enter
premises.

25. (1) Any person authorised in writing by the prescribed authority referred to in section 23 and any police officer not below the rank of a sub-inspector may—

(a) enter at all reasonable times and inspect any premises in which any performing animals are being trained or exhibited or kept for training or exhibition, and any such animals found therein; and

(b) require any person who, he has reason to believe, is a trainer or exhibitor of performing animals to produce his certificate of registration.

(2) No person or police officer referred to in sub-section (1) shall be entitled under this section to go on or behind the stage during a public performance of performing animals.

Offences.

26. If any person—

(a) not being registered under this Chapter, exhibits or trains any performing animal; or

(b) being registered under this Act, exhibits or trains any performing animal with respect to which, or in a manner with respect to which, he is not registered; or

(c) exhibits or trains as a performing animal, any animal which is not to be used for the purpose by reason of a notification issued under clause (ii) of section 22; or

(d) obstructs or wilfully delays any person or police officer referred to in section 25 in the exercise of powers under this Act as to entry and inspection; or

(e) conceals any animal with a view to avoiding such inspection; or

(f) being a person registered under this Act, on being duly required in pursuance of this Act to produce his certificate under this Act, fails without reasonable excuse so to do; or

(g) applies to be registered under this Act when not entitled to be so registered;

he shall be punishable on conviction with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

27. Nothing contained in this Chapter shall apply to:—

Exemptions.

(a) the training of animals for *bona fide* military or police purposes or the exhibition of any animals so trained; or

(b) any animals kept in any zoological garden or by any society or association which has for its principal object the exhibition of animals for educational or scientific purposes.

CHAPTER VI

MISCELLANEOUS

28. If the owner of any animal is found guilty of any offence under this Act, the court, upon his conviction thereof, may, if it thinks fit, in addition to any other punishment, make an order that the animal with respect to which the offence was committed shall be forfeited to Government and may, further, make such order as to the disposal of the animal as it thinks fit under the circumstances:

Power of court to deprive person, convicted of cruelty, of ownership of animal.

Provided that no order shall be made under this section unless it is shown by evidence as to a previous conviction under this Act or as to the character of the owner or otherwise as to his treatment of the animal that the animal, if left with the owner, is likely to be exposed to further cruelty.

29. If any person is charged with the offence of killing a goat contrary to the provisions of clause (l) of sub-section (1) of section 11, and it is proved that such person had in his possession, at the time the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary is proved, that such goat was killed in an unnecessarily cruel manner.

Presumption as to guilt in certain cases.

30. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under clause (l), clause (m) or clause (n) of sub-section (1) of section 11 or section 12 shall be a cognizable offence within the meaning of that Code.

Cognizability of offences.

31. (1) If a police officer not below the rank of sub-inspector has reason to believe that an offence under clause (l) of sub-section (1) of section 11 in respect of a goat is being, or is about to be, or has been, committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached

Powers of search and seizure.

thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize such skin or any article or thing used or intended to be used in the commission of such offence.

(2) If a police officer not below the rank of sub-inspector, or any person specially authorised by the State Government in this behalf, has reason to believe that *phooka* or *doom dev* has just been, or is being, performed on any animal within the limits of his jurisdiction, he may enter any place in which he has reason to believe such animal to be, and may seize the animal and produce it for examination by the veterinary officer in charge of the area in which the animal is seized.

**Search
warrants.**

32. (1) If a magistrate of the first or second class or a presidency magistrate or a sub-divisional magistrate or a commissioner of police or district superintendent of police, upon information in writing, and after such inquiry as he thinks necessary, has reason to believe that an offence under this Act is being, or is about to be, or has been, committed in any place, he may either himself enter and search or by his warrant authorise any police officer not below the rank of sub-inspector to enter and search the place.

(2) The provisions of the Code of Criminal Procedure, 1898, ^{5 of 1898.} relating to searches shall, so far as those provisions can be made applicable, apply to searches under this Act.

**General
power of
seizure
for
examination.**

33. Any police officer above the rank of a constable or any person authorised by the State Government in this behalf, who has reason to believe that an offence against this Act has been or is being, committed in respect of any animal, may, if in his opinion the circumstances so require, seize the animal and produce the same for examination by the nearest magistrate or by such veterinary officer as may be prescribed, and such police officer or authorised person may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination.

**Treatment
and care of
animals.**

34. (1) The State Government may, by general or special order, appoint infirmaries for the treatment and care of animals in respect of which offences against this Act have been committed, and may authorise the detention therein of any animal pending its production before a magistrate.

(2) The magistrate before whom a prosecution for an offence against this Act has been instituted may direct that the animal concerned shall be treated and cared for in an infirmary, until it is fit to perform its usual work or is otherwise fit for discharge, or that it shall be sent to a *pinjrapole*, or, if the veterinary officer in

charge of the area in which the animal is found or such other veterinary officer as may be authorised in this behalf by rules made under this Act certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed.

(3) An animal sent for care and treatment to an infirmary shall not, unless the magistrate directs that it shall be sent to a *pinjrapole* or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the veterinary officer in charge of the area in which the infirmary is situated or such other veterinary officer as may be authorised in this behalf by rules made under this Act.

(4) The cost of transporting the animal to an infirmary or *pinjrapole*, and of its maintenance and treatment in an infirmary, shall be payable by the owner of the animal in accordance with a scale of rates to be prescribed by the district magistrate, or, in presidency-towns, by the commissioner of police:

Provided that when the magistrate so orders on account of the poverty of the owner of the animal, no charge shall be payable for the treatment of the animal.

(5) Any amount payable by an owner of an animal under subsection (4) may be recovered in the same manner as an arrear of land revenue.

(6) If the owner refuses or neglects to remove the animal within such time as a magistrate may specify, the magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(7) The surplus, if any, of the proceeds of such sale shall, on application made by the owner within two months from the date of the sale, be paid to him.

35. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence. Limitation of prosecutions.

36. The Central Government may, by notification in the Official Gazette, direct that all or any of the powers exercisable by it under this Act may, subject to such conditions as it may think fit to impose, be also exercisable by any State Government. Delegation of powers.

37. (1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules providing for all or any of the following matters, namely:—

(a) the terms and conditions of service of members of the Board, the allowances payable to them and the manner in which they may exercise their powers and discharge their functions;

(b) the maximum weight of loads to be carried or drawn by any animal;

(c) the conditions to be observed for preventing the overcrowding of animals;

(d) the period during which, and the hours between which, any class of animals shall not be used for draught purposes;

(e) requiring persons impounding or confining or causing to be impounded or confined any animal in any pound to supply the animal with a sufficient quantity of water and food at appropriate intervals and for that purpose authorising all such steps as may be necessary to be taken;

(f) prohibiting the use of any bit or harness involving cruelty to animals;

(g) requiring persons carrying on the business of a farrier to be licensed and registered by such authority as may be prescribed and levying a fee for the purpose;

(h) the precautions to be taken in the capture of animals for purposes of sale, export or for any other purpose, and the different appliances or devices that may alone be used for the purpose; and the licensing of such capture and the levying of fees for such licences;

(i) the precautions to be taken in the transport of animals, whether by rail, road, inland waterway or sea, and the manner in which and the cages or other receptacles in which they may be so transported;

(j) requiring persons owning or in charge of premises in which animals are kept or milked to register such premises, to comply with such conditions as may be laid down in relation to the boundary walls or surroundings of such premises, to permit their inspection for the purpose of ascertaining whether any offence under this Act is being, or has been, committed therein, and to expose in such premises copies of section 12 in a language or languages commonly understood in the locality;

(k) the form in which applications for registration under Chapter V may be made, the particulars to be contained therein, the fees payable for such registration and the authorities to whom such applications may be made;

(l) any other matter which has to be, or may be, prescribed.

(3) If any person contravenes, or abets the contravention of, any rules made under this section, he shall be punishable with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

(4) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

45 of 1860. 38. Every person authorised by the State Government under section 33 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Persons authorised under section 33 to be public servants.

45 of 1860. 39. No suit, prosecution or other legal proceeding shall lie against any person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything in good faith done or intended to be done under this Act. Indemnity.

40. The Prevention of Cruelty to Animals Act, 1890, is hereby repealed. Repeal of Act II of 1890.

STATEMENT OF OBJECTS AND REASONS

The Committee for the prevention of cruelty to animals appointed by the Government of India drew attention to a number of deficiencies in the Prevention of Cruelty to Animals Act, 1890 (Central Act No. 11 of 1890) and suggested its replacement by a more comprehensive Act. The existing Act has a restricted scope as:

- (1) it applies only to urban areas within municipal limits,
- (2) it defines the term "animal" as meaning any domestic or captured animal and thus contains no provision for prevention of cruelty to animals other than domestic and captured animals,
- (3) it covers only certain specified types of cruelty to animals, and
- (4) penalties for certain offences are inadequate.

This Bill is intended to give effect to those recommendations of the Committee which have been accepted by the Government of India and in respect of which central legislation can be undertaken. The existing Act is proposed to be repealed.

Besides declaring certain types of cruelty to animals to be offences and providing necessary penalties for such offences and making some of the more serious of them cognizable, the Bill also contains provisions for the establishment of an Animal Welfare Board with the object of promoting measures for animal welfare.

Provision is also being made for the establishment of a Committee to control experimentation on animals when the Government, on the advice of the Animal Welfare Board, is satisfied that it is necessary to do so for preventing cruelty to animals during experimentation. The Bill also contains provisions for licensing and regulating the training and performance of animals for the purpose of any entertainment to which the public are admitted through sale of tickets.

NEW DELHI;

AJIT PRASAD JAIN

The 7th March, 1959.

FINANCIAL MEMORANDUM

Under clause 4 of the Bill it is proposed to establish an Animal Welfare Board for performing functions described in clause 9. The Funds of the Board will according to clause 8 consist of grants made to it from time to time by the Government and of contributions, donations, subscriptions, bequests, gifts and the like made to it by any person. The funds actually required by the Board will depend upon the scale on which it is progressively in a position to take up the performance of its duties and of the extent to which it succeeds in eliciting public response in the shape of contributions and donations, etc. It is, however, proposed to make an *ad hoc* grant of Rs. 25,000/- to it from the Consolidated Fund annually for the first two years of its establishment.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 37 of the Bill empowers the Central Government to make rules to carry out the purposes of the Act. The matters in respect of which such rules may be made relate *inter alia* to the terms and conditions of service of members of the Board, the maximum weight of loads that may be carried or drawn by any animal, the period during which, and the hours between which, any class of animals shall not be used for draught purposes, the licensing and registration of farriers, the precautions to be taken in the capture of animals or in the transportation of animals, and the registration of premises in which animals are kept or milked and the inspection thereof to detect the commission of any offence under the Act.

2. Clauses 7(2) and 10 of the Bill empower the Animal Welfare Board to make, subject to the previous approval of the Central Government, regulations consistent with the provisions of the Act and the rules made thereunder relating to the administration of the Board's affairs and the carrying out of its functions.

3. Power is also being given to the Committee, if and when appointed, under clause 15(1) to make rules under clause 17(1) in relation to the conduct of experiments on animals. The objects, for which such rules are to be made, are specified in clause 17(2). They relate to matters of detail in the performance of experiments on animals with a view to avoid unnecessary pain and suffering.

4. The delegation of legislative power is thus of a normal character.

S. N. MUKERJEE,
Secretary.